

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

U.S. SERIAL NO. : 10/572,605  
APPLICANT : Karl-Heinz KOHLER  
FILED : June 15, 2007  
TITLE : ROPE GAME DEVICE  
ART UNIT : 3764  
EXAMINER : Jerome W. DONNELLY

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September 15, 2010

Mail Stop AF  
Commissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450

**REQUEST FOR RECONSIDERATION AFTER FINAL REJECTION**

Sir:

In reply to the June 15, 2010 final Office Action, reconsideration of the rejections is respectfully requested in light of the following remarks.

**REMARKS**

Claims 1-17 are pending in this application.

**I. Allowable Subject Matter**

Applicant thanks the Examiner for the indication that claims 3 and 11 would be allowable if rewritten to include all of the limitations of the base claim and any intervening claims.

**II. MPEP 2173.05(c)**

The paragraph bridging pages 2 and 3 of the Office Action discusses the requirements of MPEP 2173.05(c). Applicants assume that this paragraph was erroneously included in the Office Action because it does not identify claims that fail to comply with MPEP 2173.05(c).

Original dependent claim 16 may have contained a broad range and narrow range. However, by way of the October 29, 2009 Amendment, claim 16 was amended to contain the broad range and new dependent claim 17 was added to retain the subject matter of the narrow range.

**III. Rejection Under 35 USC 103**

Claims 1, 2, 4-8, 10 and 15-17 were rejected under 35 USC 103(a) as allegedly being unpatentable over US Patent No. 7,052,437 to Kohler in view of US Patent No. 4,097,043 to Rudy. This rejection is respectfully traversed.

The Patent Office acknowledges that Kohler does not teach or suggest a device having a frame member that is a icosahedron. The Patent Office introduces Rudy as allegedly teaching a play ground climber in the shape of a icosahedron. The Patent Office alleges that it would have been obvious to one of ordinary skill in the art at the time of the invention to manufacture a playground structure of a icosahedron as one of several design shapes available in the art of designing playground structures. Applicant respectfully disagrees with the allegations made by the Patent Office as set forth in the Office Action.

It is known to a skilled artisan that dodecahedrons are used to build game devices. Published evidence, such as, for example, US Patent Nos. 3,970,301, 4,097,043 and 7,052,437 and WO 02/074392, DE 23 16, 141, DE 199 14 192 illustrates that dodechedrons have been used by skilled artisans for over 35 years to build game devices. Rudy discloses to the skilled artisan that dodecahedrons are known in the art to be usable for building game devices because dodecahedrons are extendable and connectable. However, the Examiner has not cited, and Applicant is not aware of any similar examples of icosahedron being used in playing devices. In view of Rudy and the above-identified published evidence, Applicant submits that icosahedrons are not part of the common knowledge known to a skilled artisan for building game devices.

There are many reasons why the skilled person would have chosen dodecahedrons, and would not have considered icosahedrons to build game devices. One advantage of dodecahedrons is that due to the smaller number of faces, the faces of dodecahedrons are bigger than faces of icosahedron. That is, if a dodecahedron is quite small, then there is still sufficiently enough space onr area for the climbing

children. Additionally, a face usable for installation of a dodecahedron is quite big; therefore, there is less effort needed for fixation of a dodecahedron onto the ground when compared to the effort needed for fixation of a icosahedron. Further, due to the high number of corners for the dodecahedron there is a high number of ropes or rods extending radial from corner points when compared to corner points of a icosahedron. In other words, a dodecahedron has more ropes or rods extending radial that may be used for climbing when compared to a icosahedron. Moreover, a dodecahedron has faces in shape of a pentagon, whereas an icosahedron has faces in shape of a triangle. As a result, the face of the dodecahedron provides more ropes or rods extending in similar angles which make climbing more easy and safe for a child.

Accordingly the skilled person would have been drawn to the use of dodecahedrons, and would have been discouraged from using icosahedrons. Applicant has recognized the hidden advantages in employing icosahedron for building game devices despite the apparent negative characteristics. By doing so, surprising, unexpected and unforeseeable results and advantages were discovered by the Applicant by employing icosahedrons instead of dodecahedrons for building game devices. These advantages illustrate criticality of using icosahedrons for building game devices.

For example, an icosahedron has a greater number of faces (i.e., 20 faces) than the number of faces of a dodecahedron (i.e., 12 faces). As a result, an icosahedron provides more available space on an outside of the game device for climbing children. Also, there are more faces where two dimensional inserts according to present claim 16 may be fixed. For example, when a dodecahedron is arranged on one of its faces,

there are merely 11 exposed faces available for the climbing children. In contrast, when an icosahedron is fixed to the ground with one of its faces, 19 exposed faces are available for the climbing children. Another advantage is that an icosahedron has 12 corners wherein a dodecahedron has 20 corners. The effort for manufacturing and mounting an icosahedron is much less than the effort for manufacturing and mounting a dodecahedron. Additionally, a nesting of the presently claimed hollow ball modules having spatial form of a truncated icosahedron is quite easily manufactured. Further, effort for tensioning the ropes of an icosahedron is much less than the effort for tensioning the ropes of a dodecahedron due to the smaller number of corners for icosahedron. These surprising, unexpected and unforeseeable results and advantages when using icosahedrons are evidence of criticality for using icosahedrons for building game devices.

While these characteristics may be inherent in the structure of icosahedrons, no one prior to the present application has seen past the apparent disadvantages. Applicant has acted against the common wisdom and has harnessed these hidden advantages to create a climbing device with surprising improvements in several aspects.

Kohler and Rudy, taken singly or in combination, fail to teach or suggest a rope game device having an outer frame that comprises an icosahedron shape, wherein edges and corners of the icosahedron shape are formed as frame elements having a shape of an equilateral triangle, wherein one or more hollow ball modules are arranged within one another and have the spatial form of a truncated icosahedron as required by claim 1.

Because these features of independent claim 1 are not taught or suggested by Kohler and Rudy, taken singly or in combination, these references would not have rendered the features of independent claim 1 and its dependent claims obvious to one of ordinary skill in the art.

For at least these reasons, claims 1, 2, 4-8, 10 and 15-17 are patentable over the applied references. Thus, withdrawal of the rejection under 35 USC 103(a) is respectfully requested.

#### **IV. Conclusion**

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 1-17 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Early and favorable action is earnestly solicited.

#### **CONDITIONAL PETITION FOR EXTENSION OF TIME**

If entry and consideration of the amendments above requires an extension of time, Applicant respectfully requests that this be considered a petition therefor. The Commissioner is authorized to charge any fee(s) due in this connection to Deposit Account No. 14-1263.

**ADDITIONAL FEE**

Please charge any insufficiency of fees, or credit any excess, to Deposit Account No. 14-1263.

Respectfully submitted,  
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